

REMARKS

The above claim amendments are submitted along with the following remarks to be fully responsive to the outstanding Official Action mailed May 17, 2006. It is further submitted that this response is timely filed within the three month shortened statutory period. Reconsideration of all outstanding grounds of objection and rejection and allowance of the subject application are respectfully requested.

Claims 21-29 stand rejected on the ground of nonstatutory obviousness-type double patenting with respect to claims 4-7 of commonly owned, U.S. Patent No. 6,652,814 in view of U.S. Patent No. 6,325,975. In response, a terminal disclaimer in accordance with 37 CFR 1.321(c) is filed herewith. This rejection is therefore obviated and withdrawal of the rejection is thus respectfully requested.

Claims 21-24, 31, 32, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,325,975 to Naka et al. In response, independent claims 21 and 31 are amended as set forth above and are believed distinct from the Naka et al. reference as explained below.

Claims 21 and 31 are amended to emphasize a distinction related to the structure and sealing functionality of the test strip holder of the present invention. Specifically, claim 21 is amended to recite that the lip extends toward the support and can at least partially surround the measurement area for forming a liquid seal along the lip. Referring to Figure 3 of the Naka et al. reference, it appears that the Examiner has read the surface of cavity 631 of bottom plate 63 as the lip recited in claim 21. The support recited in claim 21 would thus be the underneath surface of middle plate 62 that contacts the top surface of bottom plate 63 when assembled as these two surfaces form the opening for receiving the test strip. The device of the Naka et al. reference cannot therefore anticipate claim 21 as amended because claim 21 recites a lip extending toward the support that can at least partially surround the measurement area for forming a liquid seal along the lip. The Naka et al. reference does not disclose, teach, or otherwise suggest any such structure. Withdrawal of the anticipation rejection of claims 21-24 is thus respectfully requested.

Method claim 31 is amended to recite inserting a test strip into a test strip holder to press first and second portions of the test strip holder with substantially equal and

opposing forces to first and second surfaces of said test strip to form a liquid seal between the test strip holder and the test strip. The Naka et al. reference discloses a device that has a cavity for inserting a test strip. The cavity simply receives the test strip and does not press any portion of the device against the test strip as claimed. Accordingly, withdrawal of the anticipation rejection of claims 31, 32, and 36 is thus respectfully requested.

Claims 25-28, 35, and 36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Naka et al. reference in view of U.S. Patent No. 5,424,035 to Hones et al. The Hones et al. reference is cited for its use of a stationary pressure element, which does nothing to overcome the deficiencies of the Naka et al. reference set out above relative to independent claims 21 or 31. Thus, claims 25-28, 35, and 36 are believed allowable over the Naka et al. reference in view of the Hones et al. reference.

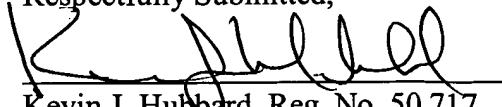
Claims 29 and 34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Naka et al. reference in view of U.S. Patent No. 4,934,817 to Gassenhuber. The Gassenhuber reference is cited for its removable test strip holder, which does nothing to overcome the deficiencies of the Naka et al. reference set out above relative to independent claims 21 or 31. Thus, claims 29 and 34 are believed allowable over the Naka et al. reference in view of the Gassenhuber reference.

Claim 33 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the Naka et al. reference in view of U.S. Patent No. 6,084,660 to Shartle. The Shartle reference is cited for its disclosure of measuring clotting times, which does nothing to overcome the deficiencies set out above to independent claim 31, from which claim 33 depends. Thus, claim 33 is believed allowable over the Naka et al. reference in view of the Shartle reference.

Accordingly, it is submitted that presently pending claims 21-36 are currently in condition for allowance, a notice of which is earnestly solicited. The Examiner is invited to contact the undersigned, at the Examiner's convenience, should the Examiner have any questions regarding this communication or the present patent application.

The Commissioner is authorized to charge any additional fees or credit any overpayment to Kagan Binder deposit account No. 50-1775 and notify us of the same.

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Respectfully Submitted,

By Kevin J. Hubbard, Reg. No. 50,717
Customer Number 33072
Phone: 651-275-9813
Facsimile: 651-351-2954

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